NAPF SUBMISSION TO THE HMT/HMRC JOINT CONSULTATION ON IMPLEMENTING THE RESTRICTION OF PENSIONS TAX RELIEF

SECTION 1

Introduction

1. We are approaching a critical period for workplace pensions in the UK. Today, only 23% of schemes are open to new members whereas ten years ago, 88% were. Faced with the economic recession, poor investment returns and rising longevity many of the employers still offering such pensions are now contemplating closure.

2. In submitting our response to this joint consultation we urge the Government to abandon its proposals for pensions tax reform as they will further undermine pension saving in the UK without achieving its desired policy objective. Instead, we call on the Government to adopt an alternative approach, which maintains the current system but with a radical reduction of the annual allowance.

3. The NAPF is the leading voice of workplace pension provision in the UK. We represent some 1200 pension schemes from all parts of the economy and 400 businesses providing essential services to the pensions industry. Ten million working people currently belong to NAPF member schemes, while around 5 million pensioners are receiving valuable retirement income from those schemes. NAPF member schemes hold assets of some £800 billion, and account for over one sixth of investment in the UK stock market. Our main objective is to ensure there is a secure and sustainable pensions system in the UK.

Executive Summary

The NAPF is opposed to the Government's pension tax proposals set out in the consultation document. We believe they will harm UK pensions saving overall without achieving the desired policy objective. The NAPF is against the proposals for three reasons:

- they undermine the EET principle and will create uncertainty as to whether it "pays to save" in a pension;
- our analysis shows that they are likely to affect many people earning less than the target group, especially due to the arbitrary and random nature of the rules; and
- these complex proposals are likely to cost 10 times more to implement than estimated by the Treasury and clearly fail to meet the Government's own Better Regulation Principles.

We have also identified a number of specific issues of concern set out within the Government's detailed consultation proposals:

- Income test – the inclusion of a broadly defined income test will create a high demand for costly in-house guidance and advice from employees earning far less than £130,000 a year;
- Employer obligations – the obligation on employers to identify whether an individuals earnings will 'trigger' the income test and to request a complex benefit statement within a very tight timeframe will be both costly and impractical for UK pension schemes;
- Redundancy – the inclusion of all redundancy payments above £30,000 will harm people when they are least able to afford additional taxation; instead, the Government should exclude the whole redundancy payment;
- DB enhancements – including the cost of unreduced DB benefits as part of deemed employer contributions will have a significant impact on early retirement flexibility; instead, these should be excluded, as should ill health and death in service benefits;
- Employer insolvency – individuals could be taxed now on accrued benefits they may never receive; it is hard to reconcile this approach with the policy aim of promoting fairness;
- Valuation method of DB benefits – the calculation of deemed contributions will be particularly complex; the proposals introduce new complexity only five years after tax simplification;
- Inconsistency of treatment between accrued DB & DC scheme benefits – members of DB and DC schemes will not be treated consistently; DB scheme members could be disproportionately penalised;
- Scheme pays process – the proposal that where the tax charge is £15,000 or more the member should be able to elect that the scheme will pay it will place a legal burden on trustees, load costs on to schemes and be hard to apply to contract-based schemes; the proposal should be abandoned.

The NAPF calls on the Government to adopt a simpler and fairer alternative approach of radically lowering the annual allowance from £245,000 per year to a far lower figure between £45,000 and £60,000.

The NAPF approach will do less harm to pension provision, be less likely to catch people on earnings far below the target group, and achieve similar savings in pensions tax relief to the Treasury's proposals.

SECTION 2

The Government must abandon its proposed changes

4. Like many others, the NAPF believes the Government's 2009 proposals for the taxation of those earning more than £130,000 per year will have detrimental effects on the UK pensions system stretching far beyond the higher earners the proposals purport to target. They will do enormous harm to pensions and must be abandoned. The proposals are damaging for three reasons:

Undermining the EET principle and creating uncertainty

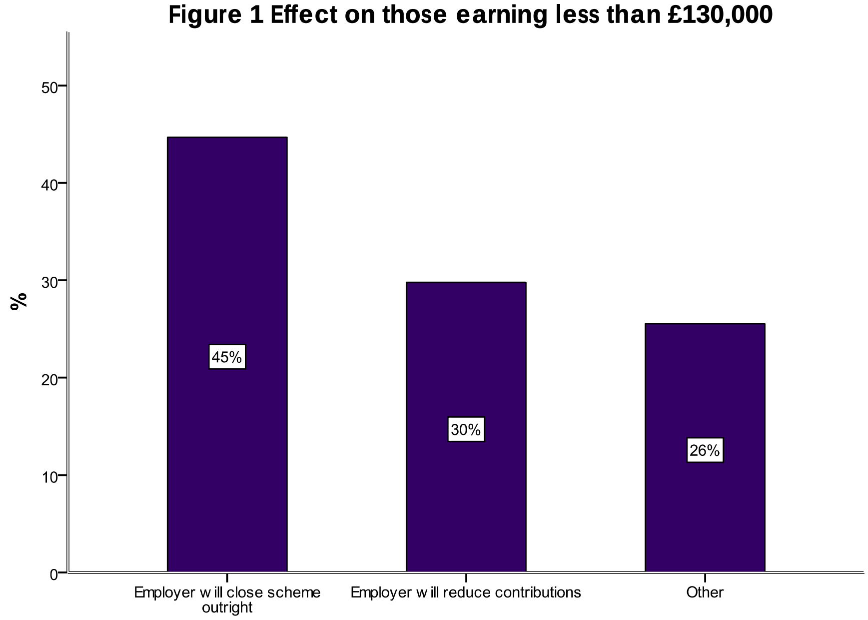
5. Within the UK pensions system, to encourage people to lock away their savings until retirement, taxation is deferred until a pension income is drawn. This is the core of the EET system. However, the 2009 proposals abandon this approach and, in so doing, introduce uncertainty and confusion for individual savers. People can no longer be sure in all circumstances that it "pays to save" in a pension. Many may fear that even it if makes sense to save in a pension now, as their income is far lower than £130,000, it may not be so in the future as they can no longer trust the Government not to reduce the threshold further down the income scale.

Harming those on incomes far lower than £130,000

6. In December 2009 the NAPF undertook a survey of its pension fund members to ascertain the impact of the proposed tax changes on pension schemes and their members. It found that 48% of pension funds believe that the tax changes will have a secondary effect on people earning less than £130,000.

7. Many will be caught for random and arbitrary reasons, such as staff receiving performance bonuses, relocation packages and redundancy payments. Examples of how people on earnings in the range of £40,000 to £80,000 upwards could be caught are set out in Annex A.

Figure 1 Effect on those earning less than £130,000



Disproportionate implementation costs and administrative complexity

8. There is a growing industry consensus that the figures in the Impact Assessment (one off costs for implementation of £265-305 million and ongoing annual costs of £50-90 million) are very significantly understated. NAPF members have suggested that the figures understate the cost by tenfold, particularly in relation to professional adviser fees for calculation work and advice. As a result, the NAPF believes that implementation costs could easily amount to between £2.5-3 billion. This is more or less the same as the Treasury's estimate of the yield. Box 1 below contains examples of indicative costs provided by NAPF members.

Box 1 Indicative Costs

Scheme Pays

HMT estimates that the total cost to schemes of operating the scheme pays regime would amount to around £110 million per year. However, we estimate the cost would be at least £420 million but could be as high as £840 million. (We estimate the cost per member to the scheme to be around £2,800. The NAPF calculation assumes that between 50 and 100 per cent of the HMT target group elect to use this option.)

Administration

HMT estimates that the cost of manual calculations required in the new regime would result in a cost of £275 per scheme but NAPF believes the costs will be between £1,000 and £2,000 per individual case. Therefore, while Treasury believes one off costs will amount to £15 million, we estimate they will be £300-600 million.

Guidance and Advice

HMT estimates that the total cost to schemes and employers of providing financial advice and guidance to effected employees would amount to £60 million. However, the NAPF estimates the cost could be as high as £210 million if all the target group are affected and much higher if, as we expect, people outside of the target group are also provided with advice. If the latter takes place, the costs could reach £500 million.

Other

In addition some schemes who have to upgrade their IT systems to take account of the proposed changes have estimated costs of £20-£30,000 to undertake minor changes. Finally most scheme managers will need to consult lawyers and actuaries regarding the specific impact of the changes on their own pension scheme. Average fees of £400-500 per hour for professional advice will increase the implementation costs of the Government's proposals.

9. Clearly, such high implementation costs fail the Government's own "Better Regulation Principles" which require that any costs imposed should be proportionate to the policy objectives and minimised wherever possible. Moreover, the proposals also appear to fail the principle that regulatory change should be focused on the specific problem being targeted so as to minimise unnecessary consequences.

The tax yield – far lower than the estimated £3 billion

10. The Government's proposals will almost certainly fail to raise the projected tax yield of £3.1bn. The NAPF has been working with Punter Southall to assess the Government's tax estimates. The results of this analysis suggest that rather than saving £3.1 billion in tax relief, when the behavioural effects suggested by the NAPF survey of pension funds are taken into consideration, the yield raised could fall within a range of between £900 million and £1.5 billion.

SECTION 3

Specific issues of concern in the current consultation

11. The Government's current public consultation on the proposed tax relief changes has revealed a host of complex, costly and corrosive implementation issues which will impose further administration requirements and unreasonable costs on schemes and employers. Specific areas of concern include:

- Income test
- Employer obligations
- Redundancy
- DB enhancements
- Employer insolvency
- Valuation method of DB benefits
- Inconsistency of treatment between accrued DB & DC scheme benefits
- Scheme pays process

Income test

12. The Government's proposals will place the onus on individuals to include employee pension contributions and charitable donations in the calculation of their total pre-tax income. If that calculation exceeds £130,000 (the floor) then further information on the value of employer contributions to test against the £150,000 high earner 'trigger' is required.

    NAPF Concerns*: As a minimum this change will necessitate a communications strategy across the UK pensions industry to explain the proposals both to the target group of c.300,000 individuals and to many hundreds of thousands of others who might potentially be affected. Many employees on total incomes below £130,000 will seek re-assurance about their own position from Pensions Managers and HR professionals with an inevitable increase in administration, demand for advice and cost to schemes. Many employers are saying they will need to assess the incomes of all employees earning £70,000 per year and over.*

Employer obligations

13. The proposals set out an employer obligation to "identify any employee to whom they provide gross pay and taxable benefits of £130,000 or over (and whose pension they contribute to) and to request a benefit statement from the pension scheme on the employee's behalf" . The benefit statement should contain details of the employee's actual pension contributions and actual (DC) or 'deemed' (DB) pension contributions paid by the employer over the previous scheme year. The pension scheme will have until 6 July - in effect only a three month time window- to produce the statement (to fall into line with the provision of information on other Benefits in Kind recorded on form P11D).

    ***NAPF Concerns**: We believe it should be <u>solely</u> the responsibility of the employee to request this information from the pension scheme. Moreover, given the complexity involved in pension schemes providing this additional information including input from professional advisers the timeframe is totally impractical and will need to be extended beyond three months.*

Redundancy

14. The Government is minded to exclude from the definition of income the initial £30,000 of a redundancy or termination payment in order to minimise the number of possible cases brought into scope for restricted tax relief as a result of a significant termination payment being paid.

    ***NAPF Concerns**: We would go much further and argue that where a payment relates to genuine redundancy the <u>whole</u> payment should be excluded from the definition of income for the tax year in question. A number of other industry stakeholders, most noticeably the Association of Consulting Actuaries, fully support this exemption on grounds of fairness.*

DB enhancements

15. The Government has proposed that enhancements within DB schemes eg the removal of the actuarial reduction on early payment of pension will need to be "subject to the tax relief restriction where appropriate" as they are usually funded through special employer contributions.

    ***NAPF Concerns** : We would argue that this approach is a particularly blunt 'correction' in the year of retirement as it could produce an excessive and disproportionate recovery charge in respect of the unreduced early payment of benefits. In addition ill health retirement and any benefits payable on death in service should be excluded from the restriction.*

Employer insolvency

16. The proposals state that if an employer becomes insolvent at a future point those individuals who do not receive full benefit entitlement will not receive a repayment of any recovery charge or a refund of restricted relief on deemed employer contributions.

    ***NAPF Concerns**: Employees are being taxed on the accrual of a future pension benefit that they might never receive at retirement, we believe it is hard to reconcile this approach with the policy aim of promoting fairness.*

Valuation method of DB benefits from employer contributions (DB Deeming)

17. The Government has set out three initial options for the valuation methodology. The Government's preferred method (on the grounds of fairness and simplicity) is a two way scale of Age Related Factor's (ARF's) varying with age and term remaining until NPA.

    NAPF Concerns*: We have serious concerns about treating employer pension contributions as a benefit in kind subject to a tax charge because these contributions fund a benefit deferred until retirement and are thus fundamentally different to other more immediate P11D benefits (eg Company car or allowance). More generally this proposed methodology will introduce further complexity into UK pensions only 5 years after tax simplification.*

Inconsistency of treatment between accrued DB & DC scheme benefits

18. The Government's proposals will calculate the deemed employer contribution in DB schemes on the basis of total service and will therefore include pre 6 April 2011 service prior to the introduction of the new tax regime. As DC deemed contributions will be the actual amounts paid by employers after 5 April 2011 the impact of accrued contributions and investment returns received on those historical contributions is disregarded.

    NAPF Concerns*: This approach could produce marked inconsistencies between different types of pension arrangement. We are particularly concerned that the inclusion of accrued service could mean DB scheme members with pre 6 April 2011 service being unduly penalised and subject to a disproportionately higher recovery charge.*

Scheme pays process

19. The Government has suggested that where individuals are subject to an annual recovery charge exceeding £15,000 the individual should have the option of electing for the pension scheme to pay the recovery charge on their behalf with their pension benefits being reduced by an actuarially appropriate amount in return.

    NAPF Concerns*: We believe that scheme pays increases administrative complexity and places an unnecessary legal burden on trustees to make tax payments to HMRC which are unconnected to the pension scheme. We would also seek greater clarity on how this payment process would operate in a contract based DC scheme where no trustees exist and a disinvestment of funds would be required to make payment. Initial legal advice indicates there could be legal restrictions under S91of Pensions Act 1995 which will need to be addressed before the actuarial reduction of benefits proposed under scheme pays is permissible. We therefore refute the suggestion that (Scheme pays) should be mandatory for schemes to operate if elected by the member to do so'.*

SECTION 4

The NAPF's alternative – a lower annual allowance

20. If the Government does need to raise additional tax revenue from workplace pensions, it must do so in a way that works with the grain of our well established pensions tax policy in the UK, and does not result in some savers being taxed twice.

21. The NAPF believes this could be best achieved by maintaining the current post-A Day 2006 tax regime but radically reducing the annual allowance from its current level of £245,000 to a lower figure in the range of £45,000 to £60,000. The rationale for the new annual allowance is that someone saving for a pension over a typical period (30 to 40 years) would still have the potential to save up to the current lifetime allowance of £1.75 million without incurring a tax charge on those savings.

22. To provide flexibility and fairness, a limited carry back / carry forward system could be operated. Alternatively, it may be helpful to exclude DB past service effects for those individuals whose income is below the notional earnings cap of £123,600 (2009/10).

23. This approach has a host of advantages:
    - It would maintain the current system of pensions taxation based on the EET principle.
    - It would carry forward the gains of the April 2006 simplification agenda.
    - It would avoid most of the costs and complexities arising under the new regime.
    - It would also avoid the risk of many individuals earning less than £130,000 being discouraged from pension saving.
    - It would also reduce the risk of key decision makers within company boards disengaging from pensions leading to reduced pensions for all employees.

24. It is impossible to assess with certainty the likely tax yield from this alternative approach – the relevant data is not in the public domain and the Treasury has not yet responded to our request for data on this issue. However, using reasonable assumptions we have estimated that our proposals could yield between £1-3 billion depending on the level of the annual allowance. Put another way, given the uncertainty surrounding the likely yield from the 2009 proposals, it is reasonable to assume that each method could raise a broadly similar amount.

SECTION 5

Conclusion

25. The NAPF, like many other industry stakeholders, believes the Government's tax proposals to be misguided and have used this consultation response to set out our concerns and indicate the reasons why the changes should be abandoned.

26. In addition we have developed an alternative approach predicated on a radical reduction of the annual allowance from £245,000 down to a range between £45,000 - £60,000 which fits within the existing pensions tax framework and is positioned at a level which still accommodates the vast majority of UK pension savers. Consequently we recommend that Government abandons its proposals as set out in 'Implementing the restriction of pensions tax relief' and introduces the NAPF's alternative solution instead.

For further information please contact:

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Annex A

Box 1. How those earning far less than £130,000 a year can be affected

A) Janet – the mid-career high achiever on £70,000 a year

Janet is a Chief Accountant aged 45 on a basic salary of £70,000 and is eligible for a performance bonus of £35,000 a year. She receives a car allowance of £8,000 per year and other benefits worth £2,000 a year. Janet has been with the company and in the DB pension scheme (1/60th accrual) for 20 years.

Janet is promoted to Financial Controller receiving a salary increase of £10,000 per year. It has been a very successful year for her employer and Janet has met her objectives so she also receives her maximum bonus of 50% of base salary. Her total income is now £130,000.

Janet's income is now higher than the income 'floor ' (£130,000) and so the deemed value of her employer contributions must be calculated and then added to her current income, to establish her gross income. As Janet is in a good DB scheme the deemed contributions are calculated as being £54,000, bringing her gross income for the purpose of the new pensions tax regime to £184,000. Janet will now become subject to a tax recovery charge of £14,200 – a figure greater than her £10,000 per year salary increase.

B) Dave – the successful manager on £40,000 a year who has to relocate with his job

Dave is a Sales Manager aged 50. He is on a salary of £40,000 a year and is eligible for a performance bonus of £12,000. He also receives a car allowance of £5,000. He has been with the company for 25 years and has been in the (1/50th) DB pension scheme for 25 years.

Dave receives a promotion to Area Sales Manager with a salary increase of £10,000 per year and a larger potential bonus of £15,000 a year. However, to get this new role, he has to move to another part of the country. The company provides him with a relocation package of £40,000 which, when grossed up for tax purposes, amounts to £67,000. As a result, his total income is now £137,000.

Dave's income is now higher than the income 'floor' (£130,000)and so the deemed value of his employer pension contributions must be calculated and then added to his current income. Although originally only on a basic salary of £50,000 a year, due to the relocation package his gross income is now calculated as £137,000.

As the employer's deemed DB contributions are calculated as being the equivalent of £120,000, for the purposes of the new tax regime, Dave's gross income will be calculated as £257,000 and he will be required to pay a tax recovery charge of £34,700, which is more than three times greater than his salary increase.

c) John – the middle ranking executive who gets made redundant due to the recession

John is an HR Manager aged 59. He is on a salary of £80,000 a year. He also receives a car allowance of £5,000. He has been with the company and a member of the (1/60th) DB pension scheme for 20 years

John is made redundant and receives a redundancy payment of 1 x salary (£80,000) of which the initial £30,000 is tax exempt. John's income is now higher than the income 'floor ' (£130,000) and so the deemed value of his employer contributions must be calculated and then added to his calculated income of £135,000 to establish his gross income. As John is in a good DB scheme the deemed contributions are calculated on a prescribed formula, which in John's case includes allowance for payment of an unreduced pension from age 60, as £137,400. This brings his gross income for the purpose of the new pensions tax regime to £272,400. John will now become subject to a tax recovery charge of £39,720 plus £20,000 tax on the net redundancy payment - a total tax charge of £59,720.

Annex B

Implementing the restriction of pensions tax relief

Consultation Questions

Applying the restriction of relief

A.1 The Government welcomes views on the best balance to strike between the smoothness of the taper and simplicity for individuals

Since the tax proposals were announced in April 2009 most focus has been on avoiding a 'cliff edge' at the end point of the £150-180,000 income range. However, given the arbitrary nature of the Government's proposals the NAPF believes a more important area which must not be overlooked is the group with income below £150,000. Many individuals within this group will face an unexpected and possibly significant recovery charge as a result of receiving a bonus or 'one off' additional payment taking their income beyond the trigger point of £150,000.

A.2 Given that the restriction of pensions tax relief for high-income individuals will apply over the tax year, the Government welcomes views on whether the pension input period for the purposes of assessment against the annual allowance should be brought in line with the tax year.

No. The pension input period for the purposes of assessment against the annual allowance should not be brought into line with the tax year.

Given the range of scheme year end dates in existence within UK pension schemes, it is likely that trying to standardise pension input periods to a common date of 5 April would require significant changes to scheme data collection and administration processes. These will give rise to additional cost.

The introduction of a common date for annual scheme renewals and communication programmes (eg benefit statements) will create serious capacity issues for third party administrators. A common scheme year end date of 5 April would present similar problems for accountants who, in order to meet legal requirements, would have to complete the scheme audit process for all UK pension schemes by 5 November each year.

A.3 The Government welcomes views on any practical or administrative issues that may arise from applying the restriction of pensions tax relief to individuals on gross incomes of £150,000 and over who are members of overseas pension schemes and benefiting from UK tax relief.

We believe that the availability of full information from overseas schemes to meet the UK reporting timetable will be a major problem and will differ markedly between countries and regions (eg particularly within the EU). Either an extension of the current reporting timetable must be introduced or a 'best endeavours' approach on a case by case basis be permitted by HM Treasury. If HMT intend to implement these proposals they should also seek views and supporting evidence from the ex pat community and/or those organisations that represent them.

A.4 The Government welcomes views on the proposal to use the higher of gross income in the current or previous tax year for the purposes of assessing whether individuals are affected by the restriction of tax relief in the year that benefits are drawn.

The NAPF believes that as a minimum protection against the imposition of a significant recovery charge in the year that benefits are drawn the lower of gross income in the current or previous tax year should be used for assessment purposes.

A.5 The Government welcomes views on ways in which the impact on individuals affected by the restriction due to a redundancy payment of over £30,000 could be further mitigated without opening up the scope for abuse.

A redundancy payment of 1 year's salary or greater could mean individuals not initially intended to be within scope for the recovery charge being included as a result of actions or events entirely outside of their control. In the interests of natural justice we propose that any genuine redundancy or termination payment is <u>totally excluded</u> from the definition of income used for assessment of the recovery charge for the tax year in which the payment is received.

Valuing the defined benefit contribution

The NAPF believes that applying a recovery charge on employer pension contributions as a benefit in kind undermines the EET principle and is a major disincentive to pensions saving in the UK. On that basis we strongly recommend that the Government should reconsider this aspect of its policy.

A.6 The Government welcomes views on how well the valuation methods meet the objectives of fairness and simplicity, and whether any other factors should be taken into consideration.

With regard to fairness each of the valuation methods has pros and cons but <u>all</u> of them are particularly complex and <u>fail</u> to meet the Government's objective of greater simplicity. Moreover, given that flat factors were considered acceptable under Finance Act 2004 for the valuation of pension input amounts and the LifeTime Allowance test we believe that the Government needs to build a more compelling case for their replacement within this latest set of proposals.

A.7 Do stakeholders agree that (a two-way scale of) ARF's is the best approach for valuing the deemed contribution? If not, the Government welcomes views on what alternative method is preferable.

Although a crude tool a two way scale of ARF's is, on balance, preferable to a single scale in that it will incorporate the remaining service period to a members normal pension age as well as actual age at the point when the 'deemed contribution' amount is calculated. However, the two way scale <u>fails</u> to meet the Government's objective of simplicity.

A.8 The Government welcomes views on whether a two-way scale is preferable to a one-way scale; which other influencing variables a[n] ARF's scale should include In an average sense, bearing in mind the objectives of fairness and simplicity; whether

there is any reason why cases where individuals have more than one NPA could not be treated using a two way ARF's scale; whether the individual or the scheme should carry out the ARF's calculation to compute the deemed contribution; whether GAD should have a role in advising HM Treasury on setting and reviewing the scale; and how the scale should be reviewed, taking into account predictability and fairness.

Variables which could influence the design of a two way scale in an average sense are wide ranging and could include marital status and potential age difference between spouses, investment assumptions regarding investment returns, pension increases paid by the scheme and risks regarding scheme solvency. Scheme design specifics like different Normal Pension Ages and the use of temporary or 'bridging' pensions up to State Pension Age would also have a significant bearing on the production of the two way scale and should be included .

The Government proposes that the ARF scale should be simple enough to understand to enable the individual member to compute the deemed contribution amount. In practice this task will fall on the scheme administrator and we believe the Government is misguided to suggest otherwise.

If this methodology does have to be introduced to ensure the two way scale is constructed on sound actuarial principles, GAD or a similarly independent body should have a role in setting and reviewing the scale of ARF's. To reduce unnecessary factor volatility and assist retirement planning the review could be on a 3 to 5 year cycle with an underpin that within certain prescribed (extreme) market conditions an immediate review would become necessary.

A.9 If respondents favour the CETV approach, the Government welcomes their views on why the CETV methodology is appropriate given the Government's principles of fairness and simplicity; the best way to apply the CETV methodology to value the deemed contribution for the purposes of restricting tax relief; and whether market movements should be stripped out and, if so, how that should be done.

The CETV approach has some familiarity from the basis of transfer out calculations and their application on pension sharing for divorce although these calculations <u>fail</u> to meet the Government's objective of simplicity. We believe that the level of individual enquiries under the Government's proposals is likely to be much higher than for pension sharing on divorce so the latter calculations are therefore <u>not</u> a good 'proxy' for the expected level of enquiries for 'deemed' employer calculations under the proposed new regime.

A.10 The Government welcomes views on whether there are any instances in which contributions or enhancements made to an individual's pension should not be subject to the restriction of pensions tax relief and why these exemptions are justified in the light of Government's stated objective of fairness; and how these exemptions might best be crafted to avoid opening up scope for avoidance.

In keeping with the objective of fairness the NAPF recommends that enhancements to ill health retirement benefits or payments arising on the death of a scheme member should not be subject to any restriction under the proposed new regime.

Enhanced or unreduced pensions payable on redundancy could be included (to minimise scope for avoidance) but only if genuine redundancy payments were <u>totally excluded</u> from the income definition as suggested in our answer to question A.5 above.

A.11 The Government welcomes views on the most appropriate treatment for DB employee contributions in a year when the deemed contribution is less than the value of the employee contribution.

In such a year the tax charge should be determined by the value of the deemed contribution not the employee's own pension contributions.

A.12 The Government welcomes views on any of the issues raised in Annexes C and D.

The NAPF has no comment to make.

Delivering the restriction of relief

A.13 The Government welcomes views on whether employers should automatically request that pension schemes provide pension benefit statements to any employee for whom they have previously asked for one.

To minimise unnecessary administration there should <u>not</u> be an automatic request obligation on pension schemes as suggested in the consultation document. Pension schemes should only be expected to provide information when requested to do so by individual members on a case by case basis.

We also recommend that under the proposed new regime, HMRC should have the <u>legal</u> responsibility for reminding all relevant employees of the requirement to obtain a benefit statement.

A.14 Do stakeholders agree that the Budget Payment Plan offers sufficient flexibility for those affected by the restriction on relief who wish to smooth payment of the tax liability across the year, paying a portion earlier than is legally required, if they wish to do so?

The flexibility of the Budget Payment Plan is only suitable for those who expect to incur a recovery charge year on year. However, given the complexity involved in the calculation of the recovery charge we cannot envisage <u>any</u> demand for this flexibility to smooth payment of the tax liability and interest in making advance payments from among the high earner group.

A.15 The Government welcomes views on its proposed approach to scheme pays and, in particular, whether the approach could be modified to minimise burdens, while delivering the same flexibility for individuals.

The NAPF believes that Scheme pays places an unnecessary legal burden on scheme trustees to make tax payments to HMRC unconnected to the pension scheme. We therefore refute the proposal that scheme pays should become mandatory for schemes to pay if elected by the member to do so.

The scheme pays approach also introduces various issues concerning calculation of pension reduction offset amounts and complexity of ongoing member record administration in respect of those individuals who exercise this option annually. There are obvious cost implications associated with this work and we believe that it would be reasonable for scheme trustees to charge a fee to carry out the work. There is also a legitimate concern regarding which 'legal entity' would make the payment in a contract based defined contribution scheme where there are no trustees and/or a trustee bank account from which the recovery charge could be paid.

A. 16 Is it appropriate to make scheme pays available only to those in defined benefit pension schemes, recognising that individuals in defined contribution schemes , whether occupational or personal , have more scope to reduce contributions if they do not wish to incur the associated recovery charges?

No. It would not be appropriate to make scheme pays available only to those in defined benefit pension schemes. If scheme pays is to be a mandatory requirement on defined benefit schemes (which we refute) then it is important for consistency of treatment and fairness between different types of pension arrangement that it is also available to all defined contribution schemes.

A.17 Is it reasonable to allow individuals to only elect for a single scheme to pay in any given year, and for that scheme to pay only the portion of the charge relating to contributions or deemed contributions made to that scheme?

This suggestion introduces a further unnecessary layer of complexity to the scheme pays approach. Initial legal advice indicates there may also be restrictions under S91of Pensions Act 1995 which will need to be removed before the actuarial reduction of benefits proposed under scheme pays is legally permissible.

A.18 For defined benefit schemes, given that the method and assumptions used to actuarially reduce the value of a pension could vary across schemes and could allow schemes to disadvantage members electing for the scheme to pay, is it appropriate to set parameters for calculating the actuarially fair offsetting reduction to a member's pension across all defined benefit schemes when implementing scheme pays, or to leave it to individual schemes' discretion?

Parameters in the form of general actuarial guidance or principles regarding a fair offset would be helpful but an overly prescriptive approach would be unacceptable. Overall, however, schemes must be able to retain total discretion to introduce a scheme specific reduction based on the advice of the scheme actuary.

A.19 Do stakeholders agree that it would be necessary to include an opt-out for the small majority of schemes that would be disproportionately affected, for example, by reference to a minimum level of funding?

Scheme pays should not be driven by scheme funding concerns but should be an option that the trustees of a scheme should have the discretion to introduce (or not) if requested to do so by a member affected by the recovery charge.

A.20 Do stakeholders consider that those with recovery charges exceeding £15,000 whose scheme is not able to pay the recovery charge should be allowed to spread payments over three years, with interest charged on the deferred element?

Spreading payment of the recovery charge over three years (with interest) should be an alternative to the scheme pays option and should be extended downward to cover a much lower recovery charge eg a de minimis level of £3,000 p.a.

A.21 The Government welcomes views on the consultation Impact assessment, attached as annex E

On the basis of NAPF member information from internal research plus expert industry comment the NAPF believes the Impact assessment has seriously underestimated (possibly tenfold) the scale of charges both for providing calculations and also the likely bespoke professional advice that will be required by the high earner group to understand the calculations and their best course of action.

We also fully expect the tight timescale proposed by HMT for individuals to provide the information via the self assessment route to increase significantly the cost of providing information and advice as professional consultants/advisers will either have to employ extra staff or existing staff will have to work longer and more billable hours.